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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,577	01/16/2001	Fred G. Slavin	P/2167-248	2901

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/760,577	<b>Applicant(s)</b> SLAVIN ET AL.	
	<b>Examiner</b> Clement B Graham	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-117 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/21/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

#### **Claim Rejections - 35 USC § 101**

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-117, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-117, do not recite any structure or functionality to suggest that a computer performs the recited claims. Thus, claims 1-117, are rejected as being directed to non-statutory subject matter. Applicant's is advised to imbed a computer or processor in the body of the claims.

#### **Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-117, are rejected under 35 U.S.C. 102(e) as being anticipated by Weiss et al (Hereinafter Weiss U.S Patent 6, 513, 020).

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As per claims 1, 11-25, Weiss discloses a method for permitting a company to sell UPA'S, said method comprising:  
transferring UPA'S from said company to a second party in return for a cash and/or asset payment (see column 1 lines 18-67 and column 2 lines 1-67)  
said company obligating itself to earn a variable number of consumption points over an agreed to consumption period by making future purchases of assets, each purchase having a respective number of consumption points associated therewith.(see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 2, Weiss discloses wherein said company makes future purchases of said assets during said consumption period so as to at least partially satisfy said obligation. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 3, Weiss discloses wherein said number of consumption points is known to said company before said company makes said purchases. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 4, Weiss discloses wherein said number of consumption points to be earned varies as a function of an interest rate. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 5, Weiss discloses further comprising periodically applying said interest rate. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 6, Weiss discloses wherein said interest rate varies over said consumption period. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 7, Weiss discloses wherein said interest rate increases over said consumption period. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 8, Weiss discloses wherein said consumption period is divided

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into a plurality of sub-periods, said interest rate being constant within any given sub-period but varying from sub-period to sub-period. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 9, Weiss discloses wherein said future purchases are made from said second party. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 10, Weiss discloses wherein said future purchases are made from a third party. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claims 26, 37-53, Weiss discloses a method for permitting a company to sell UPA'S, said method comprising:  
transferring UPA'S from said company to a second party in return for a cash payment from a financial institution (see column 1 lines 18-67 and column 2 lines 1-67) said company obligating itself to earn a variable number of consumption points over an agreed to consumption period by making future purchases of assets, each purchase having a number of consumption points associated therewith said financial institution receiving a percentage of each purchase of said assets during said consumption period. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 27, Weiss discloses wherein said company makes future purchases of said assets during said consumption period so as to at least partially satisfy said obligation. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 28, Weiss discloses wherein said number of consumption points is known to said company before said company makes said purchases. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 29, Weiss discloses wherein said number of consumption

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points to be earned varies as a function of an interest rate. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 30, Weiss discloses further comprising periodically applying said interest rate. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 31, Weiss discloses wherein said interest rate varies over said consumption period. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 32, Weiss discloses wherein said interest rate increases over said consumption period. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 33, Weiss discloses wherein said consumption period is divided into a plurality of sub-periods, the interest rate being constant within any given sub-period but increasing from sub-period to sub-period. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-66).

As per claim 34, Weiss discloses wherein said future purchases are made from said second party. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 35, Weiss discloses wherein said future purchases are made from a third party. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-60).

As per claim 36, Weiss discloses wherein some of said future purchases are made from said second party and other of said future purchases are made from a third party. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claims 54, 65-84, Weiss discloses an electronic marketplace enabling companies to enter into deals for the sale of their UPA's, each deal involving at least a company and a UPA buyer and including the sale of UPA'S

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by said company to said UPA buyer, a cash and/or asset payment to said company and an obligation on the part of said company to purchase future assets to fulfill an agreed to consumption point obligation, said system comprising (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) a marketplace administration system connected to a communication network;

a plurality of user terminals connected to said communication network whereby a plurality of companies and one or more UPA buyers can communicate with said marketplace administration system over said communication network (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) said marketplace administration system presenting a plurality of trading sites to at least some users of said user terminals, said user sites including. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) one or more UPA trading sites at which said companies can offer to sell their UPA'S to one or more of said UPA buyers, whereby deals can be entered into between said companies and said UPA buyers and relevant parameters of said deals can be entered into said marketplace administration system (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) and one or more sales sites at which said companies can purchase said assets, said sales sites providing (see column 1-2 lines 5-66) an indication of both the price of each said asset and the number of consumption points to be awarded upon the purchase of each said asset said marketplace administration system keeping track of said deals and said outstanding balance of consumption points for each said deal. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 55, Weiss discloses wherein a deal is entered into between a first of said companies and a first of said UPA buyers and wherein said one of said first company earns consumption points by purchasing assets from said first

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UPA buyer. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 56, Weiss discloses wherein said user sites further include one or more sales sites at which UPA'S purchased by one or more UPA buyers can be resold to third parties. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 57, Weiss discloses wherein at least one of said UPA sales sites offers UPA'S purchased by more than one of said UPA buyers. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 58, Weiss discloses wherein said UPA'S are sold on at least one of said UPA sales sites using an auction system. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 59, Weiss discloses wherein certain potential purchasers of said UPA'S are restricted from purchasing said UPA'S. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 60, Weiss discloses Wherein said restrictions are based on the specific identity of said potential purchasers of said UPA's. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 61, Weiss discloses wherein said restrictions are based upon a class of potential purchasers of said UPA's. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 62, Weiss discloses wherein said restriction is based upon the geographic location of a potential purchaser of said UPA's. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 63, Weiss discloses wherein said marketplace administration system stores financial information concerning each said



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company. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 64, Weiss discloses wherein said companies can purchase assets from both said UPA buyer and from third parties on said one or more sales sites. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claims 85, 96-113, Weiss discloses an electronic marketplace enabling companies to enter into deals for the sale of their UPA's, each deal involving at least a company and a UPA buyer and including the sale of UPA'S by said company to said UPA buyer, a cash and/or asset payment to said company and an obligation on the part of said company to purchase future assets to fulfill an agreed to consumption point obligation, said system comprising(see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) a marketplace administration system connected to a communication network; a plurality of user terminals connected to said communication network whereby a plurality of companies and one or more UPA buyers can communicate with said marketplace administration system over said communication network(see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) said marketplace administration system presenting a plurality of trading sites to at least some users of said user terminals, said user sites including. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) one or more UPA trading sites at which said companies can offer to sell their UPA'S to one or more of said UPA buyers, whereby deals can be entered into between said companies and said UPA buyers and relevant parameters of said deals can be entered into said market administration system (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) and one or more sales sites at which said companies can purchase said assets, said sales sites providing (see column 1-2 lines 5-66) an indication of both the price of each said asset and the

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number of consumption points to be awarded upon the purchase of each said asset said marketplace administration system keeping track of said deals and said outstanding balance of consumption points for each said deal. (see column 28 lines 45-65 and column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 86, Weiss discloses wherein a deal is entered into between a first said company, a first said UPA buyer and said financial institution and wherein said first company earns consumption points by purchasing assets from said first UPA buyer column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65) and makes a payment for such assets, part of said payment going to said financial institution, pm of said payment going to said UPA buyer. column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 87, Weiss discloses wherein said user sites further include one or more sales sites at which UPA'S purchased by one or more of said UPA buyers can be resold to third parties. column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 88, Weiss discloses wherein at least one of said UPA sales sites offers UPA'S purchased by more than one of said UPA buyers. column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 89, Weiss discloses wherein said UPA'S are sold on at least one of said UPA sales sites using an auction system.(column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 90, Weiss discloses wherein certain potential purchasers of said WA'S are restricted from purchasing said UPA's. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 91, Weiss discloses wherein said restrictions are based on the specific identity of said potential purchasers of said UPA'S. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

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As per claim 92, Weiss discloses wherein said restrictions are based upon a class of potential purchasers of said UPA'S. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 93, Weiss discloses wherein said restriction is based upon the geographic location of a potential purchaser of said UPA'S. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 94, Weiss discloses wherein said marketplace administration system stores financial information concerning each said company. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claims 95, 96-113, Weiss discloses wherein said companies can purchase assets from both said UPA buyer and from third parties on said one or more sales sites. (column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-65).

As per claim 114, Weiss discloses a method for permitting a company to sell UPA'S, said method comprising:  
transferring UPA'S from said company to a second party in return for a cash and/or asset payment(see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67) said company obligating itself to make future purchases of assets, wherein the amount of future purchases is variable. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 115, Weiss discloses wherein said company earns a number of consumption points by making said future purchases. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-67).

As per claim 116, Weiss discloses wherein said company agrees to make said future purchases over an agreed to consumption period. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-66).

As per claim 117, Weiss discloses wherein said number of consumption points is known to said company before said company makes said purchases. (see column 5 lines 53-67 and column 6 lines 1-67 and column 1-7 lines 1-64).

Conclusion

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4. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Joong et al U.S, 6,188, 887 Patent ) teaches distributed data storage and delivery in a cellular telephone network.

.Sehr (US Patent 6, 609, 659) teaches passport system and methods utilizing multi application passport cards.

Liddy et al (US Patent 6, 026, 388) teaches user interface and other enhancements for natural language information retrieval system and method.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

March 16, 2005

  
PAUL  
PATENT EXAMINER  
Art 3628